



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 19-045

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

The proposed rule meets the standard that is required to submit a petition under s. 227.26 (4), Stats., for expedited repeal of an unauthorized rule. An “unauthorized rule” is a rule for which an agency lacks the authority to promulgate the rule due to the repeal or amendment of the law that previously authorized its promulgation.

In this case, the repeal of s. 287.25, Stats., in 2011 Wisconsin Act 32, removed the department’s statutory authority for demonstration grants for community-wide waste reduction projects. The proposed rule removes the administrative rule chapter which the department utilized to administer this program.

2. Form, Style and Placement in Administrative Code

a. In the rule summary’s listing of statutory authority, the citations to ss. 227.26 (4) (b) and 227.29 (1) (a), Stats., should be removed. Those provisions establish the expedited repeal process and require an annual report by each agency of unauthorized rules, respectively. They do not remove or confer rulemaking authority for the subject matter addressed in the proposed rule. [s. 1.02 (2m) (a), Manual.]

b. In the related statutes or rules section, it appears that ch. NR 548 should be added.